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FISCAL IMPACT STATEMENT

LS 6988

BILL NUMBER: HB 1297

NOTE PREPARED: Jan 29, 2008

BILL AMENDED: Jan 29, 2008

SUBJECT: Publication of Notices.

FIRST AUTHOR: Rep. Hinkle

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill does the following.

Website Posting: The bill provides that a notice published in a newspaper must also be posted on the newspaper's Internet web site if the newspaper maintains a web site that the general public may access without entering a password or paying a fee.

Report of Salaries and Vendor Payments: Cities, Towns, and Counties - The bill eliminates the requirement that a city publish the ordinance setting the salaries of elected city officers.

It requires the disclosure in the annual report of a city or town and the annual abstract of receipts and expenditures of a county of the total payment made to each vendor paid more than \$2,500, except that this disclosure need not exceed 200 vendors.

The bill requires cities, towns, and counties to publish salaries of officers, deputies, and employees only if the salary exceeds a certain amount.

All Political Subdivisions - The bill requires all political subdivisions with a budget of at least \$300,000 and the power to levy a tax to publish an annual report (if not required under any other statute to publish an annual report) of:

- (1) the receipts and expenditures of the political subdivision, including the salaries of officers, deputies, and employees if the salary exceeds a certain amount; and
- (2) the total payment made to each vendor paid more than \$2,500, except that this disclosure need not exceed 200 vendors.

School Corporations - The bill requires a school corporation to publish a listing of positions that receive extracurricular salaries or stipends for school activities that exceed \$1,000.

Publication Procedures: The bill allows a political subdivision publishing notice under IC 5-3-1 to publish in only one newspaper in the political subdivision (instead of two newspapers), if only one newspaper is published in the political subdivision.

Publication Charges: It allows a newspaper or qualified publication to increase the basic publication charges that were in effect during the previous year by an amount equal to the lesser of:

- (1) the average of the annual percentage change in the Consumer Price Index for the preceding two years; or
- (2) the maximum annual percentage increase in the spending of political subdivisions for the year under any spending cap limit enacted into law.

The bill also requires public notice advertisements to be in at least 7-point type.

Sheriff's Notice of Foreclosure Sales: The bill requires a sheriff to publish notice of a mortgage foreclosure sale in at least two newspapers (instead of one newspaper) in each county where the real estate is located, unless only one newspaper is published in a county.

Counties: It eliminates the requirement that counties publish claims (except for court allowances) in advance of payment. (Current law does not require municipalities to follow this procedure.)

Conforming Amendments: The bill makes conforming amendments.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Summary-* Overall, the bill could increase publishing costs for state and local units by increasing the basic charges for public notice advertising, and by requiring certain local units to publish budgets, salaries, and vendor payments that may not have been published in the past. In certain cases, local units may not have to publish certain notices, may use alternative sources for publication, or may publish fewer times than is required under current statute, which may provide for cost savings.

Website Posting: The bill requires that a notice published in a newspaper also be published on the newspaper's website under certain circumstances. While the cost of publishing in a newspaper is set in statute, additional fees for website publishing are not discussed. As a result, this provision has no fiscal impact. However, the State Board of Accounts (SBA) will develop a standard form for notices posted on a newspaper's Internet site.

Publication Charges: After December 31 2008, annually the basic charge for public notice advertising may increase based on the change in the Consumer Price Index - All Urban Consumers (CPI-U) for the preceding two years. However, the basic charge for first insertion of a public notice may not exceed the lowest classified advertising rate for a comparable-sized space.

Background: Under current law, the basic publication charge before January 1, 1996, was \$3.30 per square for the first insertion, plus \$1.65 per square for each additional insertion. A newspaper or qualified

publication was allowed to increase the rate by 5% annually between December 31, 1995, and December 31, 2005. The SBA equalizes the cost per line across fonts in a table that uses the square rate to establish line rates based on type size. Effective January 1, 2005, the last date the SBA provided the information, the square rate was \$5.39.

The increase in CPI-U in 2007 was 3.41% and in 2008 was 3.30%.

Explanation of State Revenues: *Publication Dates:* Failing to follow publication requirements results in a Class C infraction for violation of the article concerning publication of notices. The changes in the bill could both reduce or increase the number of potential offenders by changing the publication requirements.

The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund. A court fee of \$70 is assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$17), the public defense administration fee (\$3), the court administration fee (\$3), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: (Revised) *Report of Salaries and Vendor Payments:* The bill could increase publication cost for local units, including cities and towns, counties, school corporations, and other political subdivisions, by requiring publishing notices of revenues and expenditures and by requiring additional information be published in certain circumstances. County sheriffs will have to publish sales notices in two newspapers rather than one newspaper, as well. However, the sheriff's payment for publication is not due sooner than the day after the advertised day of the sale.

Website Posting: No fiscal impact is anticipated (See *Explanation of State Expenditures* above).

Explanation of Local Revenues: *Publication Dates:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Agencies publishing public notices, State Board of Accounts.

Local Agencies Affected: Trial courts; local law enforcement agencies; fiscal bodies required to report salary and vendor payment information.

Information Sources: State Board of Accounts, *Rates for Legal Advertising, Effective January 1, 2005.*

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